

SC NAACP v. Alexander,
D.S.C. Case No. 3:21-cv-03302-MGL-TJH-RMG

Exhibit 38

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Transcription of Video File:

20211129SJudiciaryRedistrictingSubcommittee11582_1

Date: November 29, 2021

Video Runtime: 1:32:48

1 this -- we received this notice of this
2 hearing on the Tuesday before last--
3 Thanksgiving, last week with the proposal.
4 And I -- and I can tell you, I'm a little
5 worried about the timeline, but we going to
6 work through that. I would ask that so that
7 when -- but -- if we can give it -- gather
8 information on what these districts looked
9 like before the data that the staff has,
10 that would show us what the congressional
11 plans looked like before the drawing. Since
12 District 1 and District 6 fall squarely in
13 my six counties, I think I would need to
14 look at that, to analyze why Charleston
15 County was cut up and -- the way it was, and
16 why there were carvings that were further
17 away from District 6 into this map. If I
18 can get that information, it would really
19 help us when we hear the testimony.

20 CHAIRMAN RANKIN: Alright, very good.

21 SENATOR HARPOOTILAN: Mr. Chairman?

22 CHAIRMAN RANKIN: Senator Harpootilan?

23 SENATOR HARPOOTILAN: And I share

24 Senator Bright Matthews concerns, we
25 actually got this the Tuesday before

1 Thanksgiving. And I've had some opportunity
2 to look at it, but I have significant
3 questions about how this was done, in that
4 the sixth district for instance, still goes
5 from the Atlantic Ocean to Lake Murray,
6 which doesn't make -- and I mean, if you
7 look at the definition of gerrymander in the
8 dictionary, you're probably going to find
9 this district next to it. I'm concerned how
10 this was done, and I think that while we're
11 going to hear from these folks today, we
12 need to hear from staff folks in an -- in a
13 separate meeting, where we can ask them very
14 probing questions about how this was done,
15 why this was done. And it appears to me
16 there's a racial overlay here. I'm -- at
17 least from the little bit I -- I mean,
18 obviously, I haven't had a chance to crunch
19 the numbers I -- the way I want to -- it
20 concerns me.

21 And Mr. Chairman, you understand I have
22 not discussed that in any pejorative way, on
23 any other plan that this Subcommittee has
24 looked at. And I'm not -- certainly not --
25 accusing the staff of anything untoward, it

1 may -- just may be that the result that they
2 came up with is racially skewed. And I
3 think that we need to be very conscious
4 about the fact of -- about the issue of
5 packing African Americans into one district.
6 Thank you.

7 CHAIRMAN RANKIN: Okay, thank you.
8 Alright, and let's -- unless there are other
9 comments from the Subcommittee members?
10 Let's go to the speakers, and three here by
11 -- to testify in person, I'm going to take
12 this list out of order, because respectfully
13 Ms. Teague, Mr. Ruth, you all have been
14 here, done this. You are fixtures here.
15 Mr. Cunningham, come on up if you will. You
16 are not a fixture, at least physically. Not
17 calling anybody a potted plant, mind you,
18 but welcome. And I trust you're not going
19 to be hanging around, you're going to be
20 getting back on the road. So, you have 19
21 seconds to speak. That's not -- it's a
22 joke. But floor is yours, and welcome. Do
23 you --

24 MR. CUNNINGHAM. I appreciate it. What
25 -- how much time do I have allotted, Mr.

1 in this map why just the opposite was done
2 on this congressional map. So, I agree with
3 you on that. And out of candor, I want to
4 make sure that it's on the record that I
5 agree.

6 As far as Charleston County, I
7 represent Charleston County too. I
8 represent this side of Main Road in
9 Charleston County. I don't understand why
10 on this map, those black voters in
11 Charleston County were carved out, and the
12 more affluent areas went to make this a more
13 representative map, where repub-- a
14 republican could be elected. I'm also
15 concerned about the BVAP and the WVAP on
16 this, and how it totally switches. Out of
17 this, the -- the percentages that we have,
18 it gives this first Congressional District
19 from what I'm seeing, it totally makes it an
20 electable and secure republican district. I
21 go by the affluence, I go by the districts,
22 and the community. I understand your
23 concern, but I want you to know as a member
24 of this committee, I don't agree with this
25 map, I haven't had an opportunity to view,

1 I'm still going to inquire of staff who they
2 consulted with in drafting this map, because
3 I would think that since six and one go
4 straight through my six counties, that I
5 would have at least had some input into this
6 map.

7 Last part, I want to say this. On
8 Tuesday, when I received notice, my office
9 was winding down, I knew I had depositions
10 this morning -- this afternoon, and had to
11 be in court this morning. I had to cancel
12 everything immediately, because this is
13 critically important, because it astounded
14 me that no more notice was -- was -- should
15 have -- was given. But we're all here.
16 We're going to figure out how we work
17 through this big disparity, and this
18 protection of the first Congressional
19 District. The last --

20 CONGRESSMAN CUNNINGHAM: And I --

21 SENATOR MATTHEWS: -- question --

22 CONGRESSMAN CUNNINGHAM: -- and I
23 appreciate your work on that, Senator Margie
24 Bright Matthews.

25 SENATOR MATTHEWS: -- how is it -- in

1 it -- in looking at these numbers, how is it
2 that with the -- now with the new drawing of
3 this first Congressional District, somehow
4 it has the lowest black population of any
5 Congressional Districts?

6 CONGRESSMAN CUNNINGHAM: That's what
7 happens when you draw lines based upon race.
8 And that's exactly what was done ten years
9 ago, when I talk about downtown Charleston,
10 and that's exactly what happened today.
11 Because there's -- there's no -- this is not
12 excusable at all. And this happens in other
13 states, this isn't relegated to just the
14 State of South Carolina, but it doesn't make
15 it right anywhere.

16 SENATOR MATTHEWS: Well, did you notice
17 on this proposed map, that they took out
18 West Ashley? A very -- not necessarily
19 black or white but voted democratic. And
20 they also removed all the black parts of the
21 Sea Islands. Those are communities of
22 interest, they basically have the same
23 concerns that you ran on, which was
24 protecting our coastland.

25 CONGRESSMAN CUNNINGHAM: And West

1 Ashley has a hell of a lot more in common
2 with James Island than it does with
3 Columbia.

4 SENATOR MATTHEWS: Thank you.

5 SENATOR HARPOOTILAN: If I might, I'm
6 (inaudible) --

7 CHAIRMAN CAMPSSEN: The Senator from
8 Columbia?

9 SENATOR HARPOOTILAN: You're
10 recognizing me. I thought you had a
11 question.

12 CHAIRMAN CAMPSSEN: I'm in char-- I'm in
13 charge now.

14 SENATOR MATTHEWS: Oh.

15 CHAIRMAN CAMPSSEN: Temporarily.

16 SENATOR MATTHEWS: Big chief.

17 SENATOR HARPOOTILAN: I'll be very
18 careful then. Senator we -- I mean,
19 Senator, Congressman, were you consulted by
20 our staff in anyway?

21 CONGRESSMAN CUNNINGHAM: No, the first
22 time I learned about these maps, when it was
23 released online mere hours before
24 Thanksgiving holiday.

25 SENATOR HARPOOTILAN: Can staff

1 or their --

2 SENATOR HARPOOTILAN: No other member -

3 -

4 CONGRESSMAN CUNNINGHAM: -- staff, --

5 SENATOR HARPOOTILAN: -- of Congress,

6 but there was --

7 CONGRESSMAN CUNNINGHAM: -- was

8 consulted?

9 SENATOR HARPOOTILAN: -- we just --

10 some independent republican group submitted

11 a plan, they indicate had no negli-- it had

12 negligible result -- negligible impact. But

13 I certainly would like to see that plan,

14 find out who those folks were, and whether

15 there was any communication from them other

16 than that email to people that were involved

17 --

18 CONGRESSMAN CUNNINGHAM: So, --

19 SENATOR HARPOOTILAN: -- in drawing

20 these maps.

21 CONGRESSMAN CUNNINGHAM: So, the

22 members of Congress were consulted about the

23 lines, but the members of this committee,

24 tasked with drawing these lines, were not.

25 Is that correct?

1 there's always a possibility of a miracle,
2 but -- in any case, the bigger issue then
3 becomes the push that this does add to
4 extremism in our politics. You've heard us
5 talk about that before, it's a big concern
6 for the League, that extreme districts
7 product extreme politics that are harming
8 our country.

9 So, we have other concerns as well.
10 There are places where to follow municipal
11 or county lines, black communities are split
12 at the boarder of CD 6, and we don't believe
13 they need to be. Very often, the municipal
14 boundaries are drawn with intentional
15 discriminatory processes, and this simply
16 continues that. We don't like CD 2 having a
17 finger projecting through Columbia over to
18 Fort Jackson, that's there now, but we don't
19 like it now, we don't like it in its
20 proposed form. The effort to get CD 2 to
21 Fort Jackson, drives CD 2 through the black
22 communities of Northwest Richland,
23 separating them from neighboring communities
24 to allow the incumbent to keep Fort Jackson
25 within his district. Why must a legislator

1 political problems, but not doing so will
2 surely amplify those problems. We ask you
3 to consider options that are less damaging
4 to voter rights, and to reasonable political
5 dialogue. John, would you like to comment?

6 CHAIRMAN CAMPSSEN: Mr. Ruth?

7 MR. RUTH: I'm feeling sorry for Will
8 sitting there having to take all of this
9 abuse, having been in that map drawer seat.
10 The reality in drawing maps is that it is a
11 series of policy choices. And you know, the
12 good book tells us that where your treasure
13 lies, so lies your heart. I think in map
14 drawing, where your lines lie, so lie your
15 heart. The reality is, that there are
16 problematic aspects to this map. Some of
17 them have been discussed, including the --
18 taking the historically black population in
19 the city of Charleston and combining it with
20 Columbia. Now be clear, I've defended
21 Congressional District 6 since we first drew
22 it in the 1990s. And I was involved where
23 we were trying to -- having contests over
24 who could get the highest BVAP by adding
25 this little community and that little

1 up in a -- what I say -- I mean, I say,
2 "bizarre," would you disagree with me? If -
3 - if you didn't take in --

4 MR. RUTH: My tolerance for bizarre is
5 a lot high-- a lot lower than yours.

6 SENATOR HARPOOTILAN: So, when I say,
7 "bizarre," I mean if you disregard
8 incumbency, if you disregard race, if you
9 disregard those kinds of things, it doesn't
10 make any geographic sense, does it?

11 MR. RUTH: No.

12 SENATOR HARPOOTILAN: Okay. So, it --
13 it is not done on the basis of ensuring one
14 man, one vote, is it?

15 MR. RUTH: No.

16 SENATOR HARPOOTILAN: It's done purely
17 based -- not purely, but significantly based
18 on race, is it not? Do they not take most
19 African American voters in Charleston
20 County, and put them in the sixth?

21 MR. RUTH: Yes.

22 SENATOR HARPOOTILAN: Okay, that would
23 be race?

24 MR. RUTH: Yes.

25 SENATOR HARPOOTILAN: And then they

1 keep the white voters in the first?

2 MR. RUTH: Yes.

3 SENATOR HARPOOTILAN: Or move them into
4 the first?

5 MR. RUTH: Or disproportionately so.

6 SENATOR HARPOOTILAN: Right. So, that
7 would be a race-based reapportionment plan
8 to benefit incumbency, would it not?

9 MR. RUTH: Certainly, the benefitting
10 incumbency would seem to be the higher
11 priority there.

12 SENATOR HARPOOTILAN: But the benefit
13 to --

14 MR. RUTH: But to do that -- I mean, I
15 --

16 SENATOR HARPOOTILAN: But to do --

17 MR. RUTH: -- you weren't involved in
18 the 2000 case as I recall, --

19 SENATOR HARPOOTILAN: No.

20 MR. RUTH: -- but at one point, one of
21 the republican lawyers, Bob Hunter, just
22 sort of stepped up -- we were almost in
23 recess at that point -- and -- and said to
24 the court, "I don't know if you realize how
25 odd this state is. Everywhere else we keep

1 saying, as most of the Hebrew profits were
2 saying, that what God wants is justice, and
3 right living, rather than religious ceremony
4 and talk for their own sake. May I ask of
5 the residents of Horry County, and the
6 entire South Carolina, for you to go back
7 and redraw fair U.S. Congress Congressional,
8 State senate, and for those -- even though
9 this is not the House meeting -- for those
10 in the House, districts without cracking and
11 packing. Draw contiguous lines.

12 Why should Horry County be split with
13 five senate districts? 28,30, 32, 33, and
14 34. I believe this (inaudible) body was
15 presented with maps that have more
16 contiguous lines, competitive seats.

17 Remember what goes around comes around
18 quicker than ever in these states. And if
19 these districts aren't drawn right, while
20 you and others may get re-elected, and for
21 those of your social and economic circle--
22 circles get terms, they won't be pleasant.
23 Eventually, you become most miserable,
24 because the Universe never forgets.

25 Majority is not always right. The fact